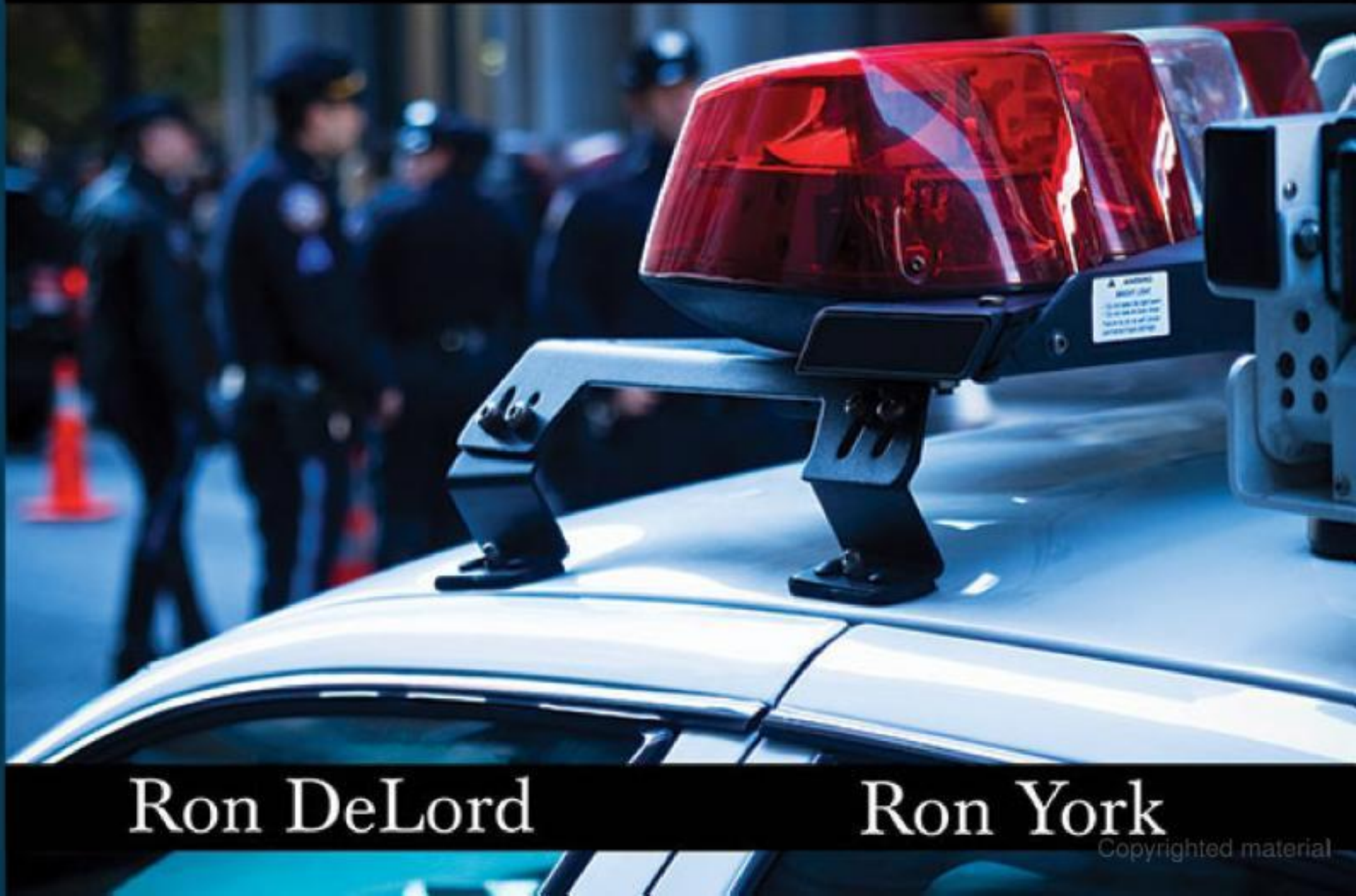
LAW ENFORCEMENT, POLICE UNIONS, AND THE FUTURE

EDUCATING POLICE MANAGEMENT AND UNIONS ABOUT THE CHALLENGES AHEAD



Ron DeLord Ron York

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LAW ENFORCEMENT, POLICE UNIONS, AND THE FUTURE

Educating Police Management and Unions About the Challenges Ahead

By

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and

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(With Seven Other Contributors)

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Part I

A MESSAGE TO POLICE UNIONS: THE ROAD DOES NOT GO ON FOREVER AND THE PARTY EVENTUALLY ENDS

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Chapter 1

STORM CLOUDS WERE BREWING

From the mid-2000s the authors could see the storm clouds brewing. While we could not have anticipated the depth of the coming financial meltdown, we started preaching to police unions that they could not sustain a compensation package that greatly exceeded what the taxpayers were receiving. Our predictions were ignored and considered heresy. Little did we know it was worse than what we were predicting.

The pillars that supported first responders receiving high wages, benefits not available in the private sector, Cadillac health insurance at work and in retirement, and a defined benefit pension that allowed for a guaranteed pension for life, had been eroding for decades. Without the underlying pillars supporting police wages, benefits and pensions, any sustained attack had a good chance to succeed.

The first pillar to erode was organized labor. Unrecognized and unappreciated by police unions was the steady decline of private sector unions. Sadly, the highest private sector unionization rate in the U.S. was the day that the AFL and CIO merged in 1955. While the local government employee unionization rate was 42.2 percent in 2008, only 7.6 percent of the private sector belonged to a labor union. By 2014, the local government employee unionization rate had only dropped to 41.9 percent, but the private sector employee unionization rate fell to 6.6 percent.

Why is this important to police labor unions? While only about 10 to 15 percent of police unions were ever affiliated with organized labor, there was a labor brotherhood and police unions could generally expect to have labor unions support their battles with public employers. Prior to the decline of organized labor, private sector union

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members enjoyed wages, benefits and pensions that exceeded the public sector, including police and fire.

The second pillar to erode were the nonunion corporations that paid union wages and benefits in order to avoid unionization of its workers. Prior to globalization many corporations paid wages, benefits and pensions comparable to those paid unionized workers. Union members and many nonunion private sector workers paid little attention to what was being provided to public employees. By 2008, over 90 percent of the private sector workforce was nonunion and many corporations felt comfortable cutting employee costs because they did not need to pay union wages and benefits to compete for workers.

The third pillar to erode was public support for higher wages, benefits and pensions for public safety employees. Private sector employees who had been suffering a slow decline in wages, saw their employers freezing wages, reducing benefits, raising health insurance premiums, or canceling health insurance, and ending defined benefit pensions for no risk, low cost 401K plans. Private sector workers were starting to become envious of what they saw as the largesse of public employees.

The media seem to enjoy reporting on police officers, firefighters and public employees who retired at age 50 and enjoyed a pension that paid them 80 percent or more of their salary for life plus receiving free or heavily subsidized health insurance while retired. Of course, the media folks reporting this disparity are also in the private sector and have the same low wages, benefits and 401K plans as their fellow private sector taxpayers. Adding to simmering anger by private sector nonunion workers was the job security enjoyed by public employees who were protected from dismissal by civil service laws and contracts. A new term "benefits envy" became the catchword to describe this anger. There was little likelihood these workers would want to pay higher taxes for benefits and pensions they would never receive.

The fourth pillar supporting police wages, benefits and pensions that were eroding was the political arena. Elected officials have two goals in life–get elected and stay elected. They do not remain in office if they cannot smell change in the air. After decades of having to concede to the demands of public employee unions for better and better compensation packets, elected officials (who are gener-

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ally private sector employers or employees) were seeing the power grid shift away from the once politically powerful public sector unions.

Elected officials started taking a hard line against increasing wages, adding more benefits and continuing to fund defined benefit pensions. For the most part taxpayers sided with the elected officials in this battle to reduce the cost of public employees. Public employee unions were witnessing the change, but most were refusing to accept that the world was changing for them.

The perfect storm that had been brewing came together in 2008 and turned the police union world upside down. The four pillars–organized labor, unionized corporations, public support, and pro-union politicians–that had supported higher wages, benefits and pension increases were not there to back up the police, fire and public employee unions when the storm hit.

Ben Bernanke, the former head of the Federal Reserve, said the 2008 financial crisis was the worst in global history, surpassing even the Great Depression. Many police labor leaders continued to believe that the Great Recession of 2008 caused elected officials and the media to attack public sector health insurance and pensions. Some even believed, at least for a while, that as soon as the economy improved, the rising cost of health insurance and the unfunded liabilities of defined benefit pensions would move to the backburner and be forgotten.

The truth is the Great Recession of 2008 merely pulled the curtain back, exposing the true costs of public sector wages, benefits, insurance and pensions. This exposure caused a negative feeding frenzy against public employees by the media. The slow burning anger felt by private sector employees had gasoline poured on the fire when the Great Recession of 2008 caused private sector employees to suffer massive layoffs, frozen wages and the loss of their 401K funds.

First responders went from the heroes of 9-11 to welfare queens in less than a decade. How could this happen? Police unions and police management seemed to be frozen in their tracks and often unable to respond. Forty-five states amended their pension laws to reduce costs and risks to taxpayers. Most often these pension bills were referred to as "pension reform."

All of these bills had one thing in common–public employers would contribute less and employees would have to contribute more.

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Some of these reforms added new pension tiers with less benefits and some ended defined benefit pension plans for all new hires. Many active first responders were faced with saving their pensions or reducing the pensions of new employees, commonly referred to as "selling the unborn."

Big money entered the debate about the costs of public sector pensions and it's not union friendly. Wealthy conservative business people like the Koch brothers spent millions backing pension reform efforts in every state. Other wealthy business people formed nonprofit foundations, such as the Goldwater Institute, Reason Foundation and Laura and John Arnold Foundation, to underwrite legislative attacks and at times referendums to reduce pensions of public employees. Virtually every day a new attack is launched against public employee pensions.

Police unions have fought back with political action, demonstrations and lawsuits. City after city witnessed union-funded billboards, radio and television ads and protests. The unions were trying to shape public opinion and pressure elected officials to stand with the first responders in not reducing benefits. Although there is an occasional police union success story, over time police unions cannot withstand the enormous resources being used against them. To quote co-author Ron York, "[t]he war is over, we are just negotiating reparations."

You get the elected officials you vote for, and police unions have backed their worse enemies. In the first and second editions the authors tried to educate police unions about building political strength through their endorsements. The key to political endorsements is for the police union to pick candidates who support the goals of the union and to not endorse candidates based solely on their political affiliation or the personal politics of the members. No one foresaw the rapid rise of the Tea Party and ultraconservative politicians. One unidentified quote was, "it is not a question that police officers are conservative, it is just a question as to how right of Attila the Hun they are."

At one time the general premise was that police unions could depend on liberal Democrats to support their labor contracts and conservative Republicans to support more law and order legislation. As police unions have become more politically conservative they have less support from liberals, at the same time conservatives want rollbacks in wages, benefits and defined benefit pensions. Compounding

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the divisions racial tensions in the major cities have driven more liberals to push for reforms of the police in what police unions see as an effort to garner support from their minority constituents. These demands for police reforms have further alienated police unions from liberal elected officials.

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Labor Relations Board (NLRB) handles certification and decertification elections, organizing, and labor disputes between the union and employers. There are rules, regulations, laws and court precedence. We would have a different labor history if the NLRA had included public employees, but we are not sure it would have helped.

Some states have a comprehensive labor law; some states have no labor laws; and some states leave labor laws to the local or county government. In many states certain public employees have the right to collective bargaining while others do not. For example, the Texas Legislature only allows certain police and fire to collectively bargain. About half of the states are "Right-To-Work (RTW)" that prohibit employees from being compelled to join a union and prohibit union shop (mandatory union membership) or agency shop (allow unions to deduct dues from nonmembers). In many RTW states public employees are prohibited from bargaining a contact.

The NLRA prohibits supervisors from being members of the union. While some state labor laws prohibit police supervisors from being in the union, most states allow separate bargaining units for supervisors or allow them to be members of the rank-and-file union.

Private sector unions prohibit dual unionism (belonging to more than one union). That is not true in most police agencies, especially in RTW states. For example, FOP may represent the bargaining unit, but there may exist a group of officers belonging to IUPA. The minority group can seek majority status and decertify the representative union, but the former majority union may remain in business. The rank-and-file bargaining unit and supervisory bargaining units may belong to different unions.

Totally unique to police unions is the development of organizations based on fraternal, ethnic and sexual orientation representing officers and asserting the organization as a quasi-labor union. These organizations often file lawsuits over contract issues, contest contract ratification internally and externally and publically challenge the certified labor union for the loyalty of officers.

The overwhelming majority of police officers, even those in unions affiliated with organized labor, see themselves as "nonunion union members." They want the benefits of being a union member, having collective bargaining contracts and union job security, but they do not see the connection to other unions.

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performed, police unions focus on issues that directly impact their members in the department.

The late Tip O'Neil, former Speaker of the U.S. House of Representatives, said, "all politics are local." The same could be said of police unions. It is all about the officers in their own department. This grass roots structure keeps union leaders grounded to what is happening locally. Union leaders learn quickly that if the issue does not directly impact the officers in their department, the issue is not a priority.

Private sector union members have very little power to force their national or international union to make the local union the priority. While the members can oust a local union official, that official seldom has any power to influence the larger body. AFL-CIO rules prohibit raiding by other affiliated unions so local members cannot seek another AFL–CIO union to represent them. While local union members can, and do, at times disaffiliate from an AFL-CIO union and select an independent union, the decertification process under the NLRA can be long and expensive.

If police union members become unhappy with their leaders, they will not only unelect them, they will often create a new local union and take over the representation. Some states have a labor board that regulates certification and decertification elections, but a large number of states have no labor board. All union loyalty is at the local level. While there are some local unions that have been loyal to their state or national organizations, that loyalty can change in a heartbeat and the members will disaffiliate.

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and master's degrees for command level officers. In many departments the pay and benefits of police supervisors and managers meet or exceed comparable private sector positions, but the education levels are not always the same.

Wages are an emotional issue within a police union. The recruiting crisis is back and it is heating up the landscape. Officers are leaving their departments in record numbers in many parts of the country for greener pastures at higher paying departments. How much is too much pay? In a capitalist society the market will determine the pay needed to attract and retain qualified officers. If the pay for officers becomes too high, taxpayers will pressure elected officials to reduce the pay or the number of officers.

POLICE UNIONS ARE STARTING TO ACT LIKE THE OLD UAW

It is always interesting to hear police officers making disparaging remarks about their brothers and sisters in the private sector unions being overpaid and having overly generous benefits. The most common remark is that the United Auto Workers Union was too successful and they negotiated contracts with the major automakers that had employees getting paid $70 per hour to spray paint a bumper. The media reported horror stories of union autoworkers calling in sick on Mondays, while getting Cadillac health insurance and huge pensions.

If you review police union contracts you will find many of the same "problems" emerging and attracting negative media attention. While there is nothing wrong with being successful at the negotiating table, the "success" of the UAW eventually led to its decline from 1.5 million to 400,000 members. The UAW continued to pile on wages and benefits until it collapsed the industry and automakers sought cheaper labor in right to work states and overseas.

If you do not believe there is a correlation between the UAW and police unions, look again at police union contracts. Our purpose is not to criticize the success of police union contracts or any particular benefit. You can argue the city cannot send police work overseas. We would like to point out that accumulating more and more pay and benefits has directly led to the shrinking of the number of sworn police jobs. Cities will seek lower costs, and they have through contracting

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drive the parties into an impasse, it will not go away. Even if the union is able to settle the contract, the problem will be waiting the next time negotiations start. Outdated messages such as "we risk our lives" are no longer resonating with elected officials or the public. People can appreciate the sacrifices officers make and at the same time do not believe they should pay more taxes so officers can deepen the disparity in wages, benefits and pensions.

Police unions fail when they do not take a long-term view of reform movements. There is a reason for paradigm shifts and police unions should be able to recognize the change agents behind the shift. You can whine and complain that you deserve better health insurance than the average taxpayer, but it is just that, whining and complaining. Police officers do deserve to be paid a fair and equitable wage, benefits, health insurance and a pension, nothing more and nothing less. *No one is entitled to anything in this country.*

Another impediment to adapting to reform movements and changing attitudes about policing is the belief by many officers and unions that their contract and civil service is literally the Bible and cannot be amended. Contracts and civil service should be living documents that are amended to reflect changes in society and to improve the efficiency and effectiveness of the police service.

Always bend before you break. Sounds easy, but we all know that members are not progressive and seldom want change until it is forced upon them. As a union leader it is your responsibility to educate the members and push them to accept changes.

QUIT DEFENDING THE INDEFENSIBLE

It is amazing how many officers and unions continue to defend the indefensible. Regardless of the fact that everyone is doing it and you want to do it too, some things are just simply wrong and damage the reputation of officers and unions. The union is not required to defend every past practice and the actions of every officer.

There is no defense when officers abuse the system by filing fraudulent disability claims. There have been reports of some departments where 50 to 75 percent of the officers retire with a disability claim to either get a higher pension or to avoid state tax consequences.

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and pensions. Unions have been fighting a losing battle to retain defined benefit plans as state after state reduced pension benefits. Just as it looked like the worse was over, a second wave hit as one video after another of officer involved shootings and arrests made the nightly news.

A third wave is building that has been driven by such groups as Black Lives Matter (BLM) and the Police Executive Research Forum (PERF). Despite their small numbers BLM is bringing national media and political attention to their allegations that police officers unjustly injure and kill black males. Many of the major city chiefs participate in PERF and they have started their own reforms to reorganize training of police officers, redefine just cause to use force, and adopt de-escalation and retreat policies. Unions are now faced with demands for change or reforms on multiple fronts.

Be a Visionary Leader

A visionary union leader sees the differences in the last war and future wars. Tactics that worked even last year are no longer getting traction. The demands for reform are not only PERF and BLM seeking training reforms. Elected officials from both political parties, and mega-rich corporate heads like the Koch brothers, the Goldwater Institute and the Laura and John Arnold Foundation are seeking economic reforms.

What can a union leader do in face of these overwhelming odds? First, you must recognize that the goal of elected officials, the Chamber of Commerce, Tea Party, and the billionaires funding antipublic employee think tanks is simple–(1) avoid risks, (2) reduce or eliminate unfunded liability, and (3) lower labor costs. The union leader faced with being attacked over wages, benefits, health insurance or pensions has to take a position that addresses each of these concerns. If you believe it is not your problem, the issue will eventually get addressed without your input. It should be an objective of the union to work with the city to avoid risks, reduce or eliminate unfunded liability and lower labor costs.

How can the union achieve these objectives? While the employer cannot avoid all risks, progressive union leaders are seeking shared risks. This is especially true about health insurance for active and retired officers. If officers and the city have a shared risk on the cost of

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pay. Scores of unions have lost public referendums on higher wages or benefits even when the public is overwhelmingly supportive of the officers.

How can the union know what the public is thinking? Simply hire a polling company and canvas the public. If your union is not big enough to pay someone to do the poll, ask a friendly state representative or senator who is doing a poll to add one or two questions to his or her poll for you. Take the polling data to your elected officials and show them that the public supports whatever you are seeking. Politicians like to stick their finger up and measure how the wind is blowing.

Survival is the Key to Success

Labor and management will have push and shove at times no matter how hard you try to cooperate with each other. Both sides need to avoid being rigid and seeing every difference of opinion as a personal attack. The key to survival as union leaders is to remember to bend before you break. Both sides lose when labor and management get into trench warfare.

Is the issue so important than you are willing to spend union resources to fight over it? Some issues are that important, but most are not. Will the fight damage relationships with management, elected officials or the public? Is the issue something the public should be concerned about?

One major union got into a public fight with the city over changes to the civil service law that switched the burden of proof in an administrative discipline case from the city to the officer. Is this issue important to officers? Probably. Is the issue important to the public? No. Despite public protestations and billboards attacking the city, the change was not retracted.

The union leaders who have the best chance of survival are flexible, avoid predictability and stay focused. It is not a matter of if, but when the next issue or crisis will emerge. Union leaders have to be on their toes and be able to judge which fights to pick. Don't use the same arguments or tactics every time. If the union is predictable the employer will know exactly how to respond. Stay focused on what is needed to resolve any conflict and do not make it personal.

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Setting Member Expectations

If there is anything that union leaders seem to dread or simply refuse to do it is to set realistic member expectations. It is so much easier to let the members believe that whatever they want is possible and that the union will fight for it. Time after time this approach has led to failure and member backlash against union leaders.

It is not easy to stand before the members and tell them the truth. People in general do not want the truth; what they want is to be told that what they believe to be true is in fact achievable. It is common for union leaders to hear "we deserve a big pay raise and we do not want to hear about the city's financial problems."

When the members are educated and given realistic expectations union leaders will have less backlash when it comes time to ratify a contract. Member education takes place prior to negotiations or the city adopting a new budget. Just because a city has money does not mean the city wants to spend it all on the police contract. There are many demands on a public employer's monies, and while the public safety functions are essential, they are not the only priority.

If the expectations of members are realistic they will not be surprised when they see what the union has negotiated with the employer. If the union leadership is afraid to tell the members the truth, there will be a member backlash.

Assuming the Members Understand the Union's Goals

If the membership did not participate in setting the goals of the union, the union leadership may be surprised to learn that the majority of the members have different goals and objectives. Officers seeking the presidency or any union board position generally have an agenda that motivated them to seek union office. Often an officer gets elected and assumes that the election is a mandate to carry out his or her personal agenda.

Every union needs to survey their members to set the priorities for the union. Don't just ask the members "what do you want?" The answer will be "more." Retain an academic to design a survey that will elicit from the members information that can be used to set the goals and objectives of the union. If your union is too small to afford a professional member survey, then use online polling vehicles like SurveyMonkey®.

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We care about you. While union resources have to be used to achieve the goals and objectives established by the members, it is important that the community sees that officers also care about the community. If the union volunteers for a charitable events (Coats for Kids, Shop with a Cop, etc.) take photos and write up the story. The message is that the officers care about the community. Send out a media release and try to get the local media to cover or report on it. Nothing is too small to report.

The issue of the day. What's on the members' mind? Every department is evolving and management is constantly coming up with new rules, regulations and policies. Today elected officials are being pressured by some community organizations to reform the department. Union communications should address any changes being proposed, solicit member comments and speak to what the union is doing to protect the member's interest.

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Second, union leaders often seek shelter from the stress and develop the habit of "being busy being busy." If you as the leader of the union cannot attend meetings with elected officials, legislative committees, management, community organizations and editorial boards when they are discussing reforms to the department because you need to go with an officer to IA or hear every grievance, then you are failing your members.

The Union Must Have Resources to Play the Game

The battles ahead for unions will be expensive. The forces demanding reforms to pensions, active and retiree health insurance, benefits, collective bargaining rights and civil service have funding from some of the richest people in the country. These conservative think tanks and foundations are fundamentally changing the public sector labor landscape one state at a time.

Regardless of your political preference no one can deny that if you pull the curtain back you will see the involvement of the Koch brothers, Laura and John Arnold Foundation, the Reason Foundation, the Goldwater Institute, many conservative Republicans, the Tea Party and the Chamber of Commerce campaigning to rid the nation of unions, collective bargaining, civil service and defined benefit pensions. Hundreds of millions of dollars are being spent to influence politicians, the media and the public.

Since the majority of officers are conservative and most support Republican politicians, perhaps police unions can continue to seek a "carve out" when their Republican friends whack other public employee unions. Any rational person knows that the carve outs for police and fire unions will eventually end when there is no one else to whack.

Just when you thought you could depend upon liberal Democrats to protect your labor rights, wages, benefits and pensions you are surprised that you now have to fight on a second front. Yes, the liberal Democrats are more favorable to private and public sector unions although we have seen numerous local and state Democrats pushing back against the deficits in defined benefit pensions.

While the Republican reforms are concentrated on reducing labor costs and unionization of public sector workers, the Democratic reforms are focused on eliminating the Police Bill of Rights, reducing

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generally accept what management and elected officials tell them. It takes a Harvard MBA to understand what government managers are saying when they lay out the budget. The role of the union can be to breakdown the government budget into a user-friendly format that every citizen understands.

If the union educates the public and media about the sources of revenues, essential and nonessential expenditures and reserves, it will do two things–(1) elected officials and management will have to be more transparent to avoid exposure, and (2) the public and media will see the union in a favorable light as a protector of tax dollars.

The union should think of itself as a "shadow government" checking and double-checking whatever the government does. The union web site can become the "go to source" for the media and the public wanting to know the truth about government finance. Take the mystery out of government budgets and audits by shining a light on the multitude of government accounts and the hiding of monies to avoid detection.

Citizens wanting to seek elected office will start to depend on the union for the "real insight" into the workings of the government. Elected officials will want to hear the union viewpoint since they are citizens themselves and are often hoodwinked by government administrators. The union can prepare a notebook to be presented to each newly elected official helping them to understand and translate government manager speak.

The union should have an open annual seminar on the government's finances after the first draft of the annual budget is released. You can use public records request to get all information management is presenting to elected officials. Invite the public and media and have your experts ready to answer questions as to what is really being said by government managers. The union can publish ad hoc updates throughout the budget process.

The Union Should be the Voice of the Department

How can the union be the voice of the department? Just assume the role and people will not question it. Chiefs and sheriffs have many restrictions on what they can and cannot say publicly. The only restrictions on the union is to not release information that is privileged or would jeopardize a case being investigated. Every union should ap-

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stayed in the political game because they realized their power was an illusion–at least in that round.

All Power is Transitory

Power comes and goes whether it is an individual or an organization. Nothing is forever. We can all name empires, unions and individuals who held power and suddenly it was gone. The United Auto Workers, Steelworkers and Teamsters had millions of members in their heyday, and today their memberships have been cut by more than half. Few people today remember Wisconsin Republican Congressman Joe McCarthy. He sent fear through the country as he hunted communists in the 1950s, and then his power evaporated.

The same principles that power is transitory apply to police unions with one caveat–while the leaders of the union may come and go and the union may be powerful and weak at times–the police union can get back to a powerful position through leadership, political action, savvy media relations and building a strong community bond. Union leaders have to be able to recognize when the union, through its leadership is coasting and not paying attention to the business of accumulating power to accomplish the goals of the union. The world is changing rapidly and powerful people and organizations come and go. If your union is riding high and believes the road goes on forever and the party never ends, you are about to get a rude awakening.

It Ain't Easy Staying on Top of Your Game

Too many union leaders get comfortable being courted by politicians and people wanting to sell something to their members. Life seems good and then suddenly it hits the fan and you are taken by surprise. At any moment you can be under attack from the Chamber of Commerce, the mayor and council, the chief or your own members. The key for a police union leader is to stay on top of your game. Don't get comfortable and ignore the building blocks for internal and external power. Every day a leader should be focused on communicating with the members, educating politicians about issues of concern to the members and reaching out to the community to assist them with issues of concern to them, not just of concern to officers or the union. The

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On the flip side the union should not be an impediment to making the department more efficient. Unions often use their PAC to fight civilianization, private contractors and technology when they know the changes will promote a more cost-efficient and effective service. We know that officers do not like change, especially change that eliminates some work assignment (usually one that has marginal need for a sworn officer) that would be taken over by less expensive civilians.

Use the Union PAC to Support Community Issues

The police and fire union PACs are usually the biggest political funds in every community. While the majority of their PAC funds go to electing friendly candidates, supporting or opposing voter initiatives and pressuring elected officials during contract negotiations, another use of PAC funds should be to support community issues. In every community there are scores of organizations struggling to provide services.

The union's political involvement should include building coalitions with these community organizations, many of which do not have PAC funds. The political world is about alliances and not friendships. The union PAC can use its influence to join forces with organizations seeking to build a senior citizens center, improving the animal shelter, supporting the battered women's center, passing bond initiatives and hundreds of other worthy community causes. You might ask why should the union spend its time and resources on community issues? One, it is the right thing to do for the community. Second, it builds alliances with the community and with organizations that you will call upon to support the officers one day.

Five Absolutes of Politics

1. **Your PAC can never have enough money**. Police union leaders must continue to push the members to increase their contributions to the union's political action committee. Candidates for elected office have an endless appetite for PAC funds. Reaching the voters when there is an initiative on the ballot costs serious money in metropolitan areas. Scores of community organizations will seek your support and need money to promote their cause.

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RULE NUMBER ONE–DO NOT DEFEND THE INDEFENSIBLE

Within minutes of a high profile shooting, police chase or use of force the media, and that includes traditional print, television, radio and social media news outlets, will be calling the union office to get a quote or a reaction. The first question will be, "Have you seen the video, and if not, would you like to see it?' The second question is, "Does the union condone such conduct by officers?"

The union cannot defend actions by members that are indefensible to the general public and common sense. The union leader's response should be to step to the side of an overheated media's blast since the media is simply churning the controversy to get elected officials and management to go into a meltdown and respond, then to record antipolice groups screaming for officers' heads to roll.

If the union stands directly in the blast and tries to stop it, the blast will overwhelm and discredit the union and the officers it represents. The union's role should be to reduce the media's prejudicing the public against the officer(s), educate the public about police tactics and defend the officer(s) right to a fair and impartial administrative, civil or criminal process.

A number of high profile cases involve officers acting badly while off duty. There was a major city where two white SWAT officers were off duty and drinking at a bar in a nearby city. The two officers got into an argument with several African American males and the out of town officers used racial slurs that were captured on the cameras at the bar. The local police arrived and calmed the situation. The out of town officers were told to leave the scene, but after showing their badges to the local police they demanded that the African American men be arrested. When the local officers refused, the officers went to the police department and demanded to speak to a supervisor. The lieutenant at the station told the off duty officers to leave after they continued to use racially offensive language and advised them he was reporting the incident to their chief. The officers then called their chief several names referring to the chief's sexual persuasion that was captured on the cameras at the station.

The incident made the front page of the news and there were outcries from the mayor, council, minority leaders and the community for

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When the incident is one that raises the question of whether the officer acted properly, the union has a great opportunity to present the department's rules, regulations and training procedures to provide evidence that the officer acted as he or she was trained. The union should invite the media to ride with an officer, attend a training class on tactics or go through the shoot, don't shoot scenarios. Nothing sobers a reporter like seeing real-life policing at the street level. It is a good practice to offer this education to the media year-round.

RULE NUMBER SIX–TIME HEALS ALL WOUNDS

If at all possible, the union should consider delaying any administrative hearing until after all civil and criminal matters are concluded. Time heals all wounds and the attention of the media and public wanes very quickly in our instant news and instant gratification society. Did anyone spend time watching the O.J. Simpson civil trial or the second Menendez brothers' criminal trial?

The longer a high profile incident is off the front page, the easier it is to resolve the case. While officers will often want an immediate resolution to the charges and to tell their story, it may not be in their best interest to expedite the process. Administrative discipline, civil actions and criminal cases are highly politicized. The judge or arbitrator assigned to these cases sometime feel more media and public pressure immediately after an incident than a year or so later. The more controversial the incident, the more time is your friend.

RULE NUMBER SEVEN–PUBLIC TRUST IS THE KEY

If police officers and the agency have a high public approval rating, the easier it is to have the public trust the actions of officers in a critical incident. If the public has a low approval rating of its officers, there is a tendency by the public to believe the media reports that the officer probably was wrong in his or her actions. Unions can do a lot to increase the approval rating of officers with the public, and in some cases the media, by being active in the community and building coalitions with community groups. Often community activists and business leaders will step forward to defend police officers in controversial cases.

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ALL CONFRONTATIONS ARE A TOOL TO MAINTAIN RESPECT BETWEEN THE UNION AND THE EMPLOYER

Confrontations are stressful, time-consuming and come with high risks that include possible failure. However, you cannot gain or retain respect without a *willingness* to engage in a confrontation. It is far worse when a union official allows management or elected officials to disrespect the union without a fight. Power brokers have no respect for the weak.

If the employer refuses to show the union respect and quietly negotiate a settlement to the dispute, then the union has to be prepared to incrementally exercise one or more confrontation tactics in an effort to get the parties back to a diplomatic resolution. Remember there is never a single knockout blow. The union should be using tactics that encourage the employer to resolve the dispute or discourage the employer from refusing to negotiate in good faith.

Confrontation for the sake of confrontation is self-defeating and wears out the members, media and public. Screaming wolf too many times will cause the union to lose respect and when a real crisis arises no one will take the union seriously. Remember not every alleged affront to the union requires a nuclear reaction.

Let's examine the two options for labor unions when you are at a loggerhead with management or elected officials. One size does not fit all unions in every situation and each union has to evaluate what will work for them. While we recommend starting with a diplomatic approach, we recognize that sometimes it is not an option. In many disputes the union will go in and out of each option depending upon what is working. The goal is always to look for an opening or opportunity to settle the dispute.

Below the Radar

Below the radar means the issue has not been made public. If it is in the media the union has decided to not make inflammatory statements, but instead the union seeks to resolve the issue without a public confrontation. If the union decides to take no public action, it is a decision that must be thoroughly vetted because no action is a decision with possible consequences. The authors believe that unions today have to see this option as more preferable to public warfare with

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Strikes. We always mention the strike as a confrontation tactic because it is still an option, not an effective or legal option, but an option nonetheless. We seriously doubt that any current police labor leaders can even recall a police strike. If you know your police labor history the Boston Police Strike of 1919 set the police labor movement back for 50 years or more. Every striking officer was terminated and never worked again as a police officer. States enacted antiunion provisions to prohibit the unionization of officers.

There were a number of police strikes, slowdowns and "Blue Flu" (sickouts) in the late 1960s and throughout the 1970s in such cities as New Orleans, San Francisco, Memphis and Oklahoma City. The outcomes varied, but the unions ultimately lost the good will of the public. Currently there have been some sickouts and work slowdowns across the country, but none have morphed into a full police strike.

The bottom line is that strikes by public safety officers are illegal in just about every state. Officers take an oath to protect and serve. To violate that oath to increase wages and benefits is not a viable alternative for the overwhelming majority of officers. As a confrontation tactic it is not effective and has the potential to cause irreparable harm to the department, the union and the officers.

Informational Picketing. This is the most common tactic used by unions. When police officers picket city hall or the police station it will get media attention. Make sure that you issue a press release advising the media of the time, place and purpose of the informational picketing.

There are several things the union must do to make the informational picketing effective. First, remember informational picketing is a starter for raising public issues for debate. It is not a knockout punch where elected officials and management will concede just because the union is picketing. Second, keep the message simple and only address external issues of concern to the public, e.g., budget cuts impact response times. Third, picket for an hour prior to the council meeting or just before the evening news. Fourth, use spouses and children along with officers to soften the image. A group of angry men picketing is not a good image. Fifth, do not use wooden stakes with picket signs attached. It appears aggressive when you have stakes in your hand so carry the signs or use string on picket signs to hang around your neck.

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This new antipolice bias sweeping the country seems to be making boycotts the hottest confrontation tactic being used by police unions. We have seen calls to boycott Quentin Tarantino over his marching with Black Lives Matter and his comments about police officers being murderers, and Beyoncé's Super Bowl performance with tributes to Black Lives Matter and the Black Panthers. Some unions have called for boycotts of various fast-foods restaurants after a clerk refused to serve local officers or wrote something negative on a coffee cup.

The authors are not criticizing any union that feels their members or officers in general have been disrespected and calls for a boycott; however, there is a point at which the public and the media will not take the police seriously if it becomes an every day event. Some of the disrespect occurrences are local and the union can go see the owner to correct the problem. If the owner is unwilling to work with the union, then more pressure can be applied. Not every slight requires a call to boycott the business.

SOME CLOSING THOUGHTS ON CONFRONTATIONS

As advocates for public safety labor unions the authors have a personal opinion on how best to deal with every situation, so unless we are in the trenches with you we have to trust that you made your decision in the best interest of the members using all of the information you had at the time. We have tried to offer some thoughts about how to approach evaluating and using a confrontation tactic. No one knows where the edge of the envelope ends until you get there. If you decide to use confrontation to resolve an impasse, we hope this book is of assistance.

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How does the union control the cost of a poll? First, remember you are taking a sample of public opinion and you are not trying to get people to vote. You can get an accurate poll statewide by contacting 800 to 1,000 people and a major city poll is accurate with 350 people. The pollster can tell you how many people need to be polled. Second, you are not trying to get within a few percentage points like you would want in an election poll. A lesser percentage of accuracy reduces the costs and it is just as efficient for what you want. Third, the number of questions also determines the costs. The union wants to know the favorability rating for the person being targeted, and one or two issues of **public concern** that the union believes the public would be upset about if they knew what was happening in the department.

Never forget the cardinal rule of analyzing the public's opinion–**it is all about them!** The public only cares about the police, fire or other public employees if it **directly** affects their lives. All media releases and the poll should be about the *external* concerns of the union. Too few officers mean delayed response times to calls for assistance; high turnover of officers means wasted tax dollars on training officers; poor wages and benefits translates into an inability to recruit the best officers; mismanagement of resources has caused the crime rate to increase; etc. What has the chief done or not done to make the department inefficient or ineffective?

Never, ever, complain or whine about discipline, shift assignments or seniority. These are *internal* complaints, and while they may be important to the officers, the public could care less about them. If you make internal complaints the basis for the no-confidence vote, the backlash will be more severe and long-lasting.

Spin Control

Get ready for spin control. If you fire a shot at someone, expect a shot back. It is always surprising that unions are caught off guard when the spin starts and they are flipped upside down and beaten to a pulp by the media. The four most common spins are:

1. If the chief is a minority, the union is racist.
2. If the chief is a female, the union is sexist.

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shoot people, especially black citizens. Suddenly there was an outcry to charge officers with criminal violations.

THE CHANGE AGENT FOR THIS PARADIGM SHIFT HAS BEEN THE VIDEO CAMERA

In 1992, co-author Ron DeLord attended the Harvard Trade Union Program. Each participant was asked what technology would have the greatest impact on his or her profession. Since DeLord had been involved in drafting legislation in Texas on mandating video cameras in patrol cars, his reply was the video camera. Little did he know that today cell phones would have video, and that virtually every person on earth would not only have a cell phone, but they would be recording police interaction with the public.

Aside from video cameras in patrol cars, the number of video surveillance cameras inside and outside of buildings has increased. The number one reason public opinion has changed so quickly is that almost every person in the United States has video on his or her cell phone and they are using it to capture police actions both good and bad.

Video after video of police using force to make arrests posted on the Internet and showing on the nightly news is creating a public perception that something is wrong. Out of tens of millions of police to citizen contacts each year, it does not seem to matter that the actual number of use of force incidents are only a few thousand. Of all use of force incidents, only a few hundred result in any administrative charge of misconduct, civil suit against the department or officer, or criminal charges. Police agencies and unions can argue until the cows come home that the public perception is incorrect and that the public does not understand a police officer's reality. But there is only one perception that counts. **Public perception is the reality, not vice versa!**

One disturbing fact has emerged from this debate over serious injuries and deaths of citizens by the police. There is no national databank that would accurately determine how many citizens have been seriously injured or killed by the 800,000+ sworn police in the United States. While we have accurate accounts of the line of duty deaths of sworn police officers, there is no national databank of the serious injuries to police officers in the line of duty.

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where the agencies and unions supported state legislation that transferred police critical incidents to the State Attorney General. The question of police investigating themselves may be brought to a head if at some point Congress mandates the FBI to investigate all police critical incidents.

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ty-first century. Every state except Hawaii has multiple police organizations competing for members within each law enforcement agency. However, even in Hawaii, the police officers that are represented in one bargaining unit by the State of Hawaii Organization of Police Officers (SHOPO) affiliated for a short time with AFSCME (AFL-CIO) before disaffiliating and returning to independent status.

Switching national unions or returning to independent status is common. There is very little long-term loyalty among American police unions, either to the local, state or national union. Unions poaching other unions for members, disaffiliation, reaffiliation, decertification and splinter groups within a law enforcement agency are the rule and not the exception. For example, the independent San Francisco Police Officers Association (SFPOA) affiliated with IUPA (AFL-CIO), disaffiliated and returned to independent status, affiliated with SEIU (CtW), later disaffiliated, and today is independent. The Police Association of New Orleans (PANO) affiliated with the Teamsters Union, but after the disastrous 1979 police strike, disaffiliated and affiliated with SEIU (CtW). PANO later disaffiliated from SEIU and is now affiliated with NAPO. Worcester, Massachusetts police voted to disaffiliate from IBPO/NAGE (SEIU, CtW) after a 30-year affiliation and affiliate with the New England Police Benevolent Association, which itself had disaffiliated from IUPA (AFL-CIO) to become independent.

More Fragmentation: Different Ranks, Different Unions, Multiple Affiliations

In the private sector in the United States, federal law excludes supervisors from the right to form a union and collectively bargain. While some state laws exclude police supervisors from collective bargaining, there are generally nonsupervisors and supervisors in joint or separate police unions in the public sector.

In many police agencies different unions represent the rank and file officers and supervisors. These local unions may have different state and national affiliations. For example, the Association for Los Angeles Deputy Sheriffs (ALADS) represents rank and file deputy sheriffs and is affiliated with the Marine Engineers Beneficial Association (MEBA, AFL-CIO). The Los Angeles County Professional Peace Officers Association represents sergeants and lieutenants and was affiliated with IUPA (AFL-CIO) and with the independent FOP.

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